



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of:

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MOP/168535

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**PRELIMINARY RECITALS**

Pursuant to a petition filed September 3, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Dane County Department of Human Services ["County"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on November 5, 2015. At petitioner's request a Hearing schedule for October 15, 2015 was rescheduled. A Spanish/English interpreter translated for petitioner and her husband.

The issue for determination is whether the following 2 Claims may be established against petitioner for MA overpayments in the total amount of \$4,017.45 for the time period January 1, 2015 to July 31, 2015:

- (I) Claim Number [REDACTED]; January 1, 2015 to May 31, 2015; \$2,574.83; and,
- (II) Claim Number [REDACTED]; June 1, 2015 to July 31, 2015; \$1,442.62.

There appeared at that time via telephone the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Represented by:

[REDACTED], petitioner's husband  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

BY: [REDACTED], Overpayment Specialist  
Dane County Department of Human Services  
1819 Aberg Avenue  
Suite D  
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:  
 Sean P. Maloney  
 Division of Hearings and Appeals

### **FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Texas but previously was a resident of Wisconsin.
2. The following 2 Claims were established against petitioner for overpayments of MA in the total amount of \$4,017.45 for the time period January 1, 2015 to July 31, 2015:
  - (I) Claim Number [REDACTED]; January 1, 2015 to May 31, 2015; \$2,574.83; and,
  - (II) Claim Number [REDACTED]; June 1, 2015 to July 31, 2015; \$1,442.62.
 Exhibits #1 & #8.
3. During the time period of the overpayments in this matter petitioner failed to report when her group income exceeded the reporting threshold stated in notices that were sent to her; her group income exceeded the reporting threshold in the months following October 2014. Exhibits #1, #1D, #2, #4A, #5, #6, #7 & #9.
4. The MA overpayment in *Findings of Fact* #2, above, resulted from the fact that petitioner failed to report her group income as required; as a result petitioner was granted MA benefits when she should not have been. Exhibits #1, #1D, #2, #4A, #5, #6, #7, #8 & #9.

### **DISCUSSION**

An overpayment of MA benefits may be recovered only in the following 3 circumstances:

- A. A misstatement or omission of fact by a person supplying information in an application for benefits;
- B. The failure of an MA or BadgerCare recipient or any other person responsible for giving information on the recipient's behalf to report the receipt of income or assets in an amount that would have affected the recipient's eligibility for benefits; or,
- C. The failure of an MA or BadgerCare recipient or any other person responsible for giving information on the recipient's behalf to report any change in the recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or the recipient's cost-sharing requirements.

Wis. Stat. § 49.497(1)(a) (2013-14); See also, *Medicaid Eligibility Handbook* ["MEH"] 22.2.1; BEM/DWS Operations Memo, No: 05-39, Date: 09/29/2005; and, BEM/DWS Operations Memo, No: 06-10, Date: 02/09/2006.

In this case petitioner failed to report income as required. Petitioner and her husband do not deny this. This caused the MA overpayments listed in *Findings of Fact* #2, above.

### CONCLUSIONS OF LAW

For the reasons discussed above, the following 2 Claims may be established against petitioner for MA overpayments in the total amount of \$4,017.45 for the time period January 1, 2015 to July 31, 2015:

- (I) Claim Number [REDACTED]; January 1, 2015 to May 31, 2015; \$2,574.83; and,
- (II) Claim Number [REDACTED]; June 1, 2015 to July 31, 2015; \$1,442.62.

**NOW, THEREFORE, it is**

### ORDERED

That the petition for review herein be and the same is hereby DISMISSED.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 11th day of November, 2015

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\\sSean P. Maloney  
Administrative Law Judge  
Division of Hearings and Appeals





**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on November 11, 2015.

Dane County Department of Human Services  
Public Assistance Collection Unit  
Division of Health Care Access and Accountability